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ABSTRACT

Historically, the Netherlands liberal approach to the problems related to drug use has been based on tolerance and a pragmatic concern for "harm reduction." Since the early 1980s, however, a shift has taken place in the direction of a tougher policy. This document describes: (1) the main features of the Dutch approach to the control of mind-altering drugs; (2) how Dutch drug policies have changed since the beginning of the 1980s; and (3) some of the domestic and international factors involved in the re-direction of Dutch drug policies. It is concluded that in the future, increasing international demands for unified world drug control laws will put mounting pressures on the Dutch government to compromise its successful and pragmatic public-health based drug policy. (Author/NL)

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TOWARDS AN "AMERICANIZATION" OF DUTCH DRUG POLICY?*

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ABSTRACT

TOWARD AN "AMERICANIZATION" OF DUTCH DRUG POLICY?

Since the early seventies, the Netherlands has consistently pursued a liberal approach to the control of mind-altering drugs. Dutch drug policy has always been based on a pragmatic concern with "harm reduction" and tolerance. Although the basic liberal philosophical foundations of Dutch drug policies have not changed over the years, an unmistakable shift in the direction of a tougher drug policy has become evident since the early eighties. This essay describes (1) the main features of the Dutch approach to the control of mind-altering drugs, (2) how Dutch drug policies have changed since the beginning of the 1980's, and (3) some of the domestic and international factors involved in the apparent re-direction of Dutch drug policies. The authors conclude that increasing demands of international harmonization of drug control laws will continue to put mounting pressures on the Dutch government to compromise its successful and pragmatic public-health based drug policy.

TOWARD AN "AMERICANIZATION" OF DUTCH DRUG POLICY?

"Everybody" in the United States knows that the Dutch are soft on drugs. The Netherlands have been portrayed as "junkie heaven" in national television specials and articles in the popular press. Politicians such as New York's Mayor Koch have expressed disbelief at the apparent tolerance of Dutch police officers smiling indulgently at the sight of heroin addicts getting their fix on a street corner. Foreign perceptions of Dutch drug policies, however, are often biased or simply wrong, based on oversimplified, superficial analyses or incomplete knowledge of Dutch society.

The foundations of current drug policies were established by the Dutch government in the early seventies (Baan 1972). A lot of changes have taken place since then. Although the basic philosophical foundations of Dutch drug policies have not changed over the years, an unmistakable shift in the direction of a tougher drug policy has become evident since the early eighties (Engelsman and Wever 1986; Hulsman 1984; Ippel 1989; Ruter 1986; Silvis 1986a, 1986b, 1988; Van Atteveld 1988; Van Vliet 1986). An important reason for the apparent shift towards a tougher approach to drug control in the Netherlands is found in strong international pressures to participate in the "war on drugs" (Anjewierden and Van Atteveld 1988; Engelsman and Wever 1986; Hulsman 1984; Silvis 1988).

Many foreigners equate the American model of drug control with the "war on drugs" based on "zero tolerance," a heavy reliance on repressive criminal justice measures, and little regard for the protection of human rights. Some Dutch, used to a fairly tolerant and flexible approach to drug use, have been quick to label most any move in the direction of a tougher drug policy as an "Americanization" of their drug policy. In this paper, we use the term "Americanization" to refer to harsh and ideologically driven drug enforcement policies.

The political, legal, philosophical and social processes which shape and transform national drug policies are too complex to be captured fully in a brief essay such as this. Our aim is more modest than that. Our purpose here is to describe (1) the main features of the Dutch approach to the control of mind-altering

drugs, (2) the changes in Dutch drug policies since the early 1980's, and (3) the national and international factors involved in the apparent re-direction of Dutch drug policy.

Many and varied sources were used to write this article. In addition to legal publications, we relied heavily on published and unpublished research reports, policy documents, government reports, and newspaper accounts (in either Dutch or English). By integrating the sociological with the legalistic perspective, we hope to contribute to a better understanding of the interplay between the legal parameters and the socio-political realities involved in the development of current Dutch drug policies.

POLICY FOUNDATIONS OF DRUG CONTROL IN THE NETHERLANDS

Pragmatism and Risk Reduction

One important premise of the Dutch political system has always been that it simply is not practical to base government policies on purely moral or ideological notions. Contrary to popular perceptions abroad, Dutch society is characterized by sharp religious and ideological differences. Through a political system based on tolerance and compromise, often conflicting views and opinions are reconciled in workable policies. The Dutch have a "traditional national commitment towards institutional plurality and social experimentalism" (Kaplan, in Ruter 1986:153). To an outsider the resulting policies may appear contradictory and ambiguous; to the Dutch, however, such policies simply reflect a pragmatic approach to a complex problem (cf. Leuw 1987). The pragmatic approach of the Dutch to policy-making is reflected, among others, in their policies with regard to prostitution, pornography, abortion, euthanasia, and drugs.

Dutch drug policy is, first and foremost, pragmatic and guided by cost-benefit principles. Policy documents and scholarly publications have contrasted the Dutch "pragmatic," "rational," or "cost-benefit" approach to drugs with the "dogmatic," "moral," "ideological," "prohibitionist" "war on drugs" of the United States (Leuw, 1987; Ruter 1986; Van Capelle 1988). A pragmatic policy rejects the popular notion that the goal of "getting rid of drugs" should be obtained by whatever means are reasonably acceptable. Instead of aiming at "conquering evil" (cf. Leuw 1987), a pragmatic approach to drug control is based on a continuous reassessment of the cost-benefit ratio (Engelsman and Wever 1986; Hoekstra 1987; Interdepartementale

Stuurgroep Alcohol- en Drugbeleid 1985; Leuw 1987).

The Dutch consider it unrealistic to expect that drug use can be eliminated from modern society. The ultimate objective of drug policy is the "reduction of harm" resulting from drug addiction, for both the addict and society. Although the risks to society must be taken into account, every possible effort must be made to ensure that drug users are not caused more harm by criminal proceedings than by the use of the drug itself. For the Dutch, the role, scope and task of the criminal law is only limited:

> The Dutch prefer a policy of encirclement, adaption, integration and normalization, rather than a policy of social exclusion through criminalization, punishment and stigmatization.... They see the criminal law less as an instrument for expressing moral values and more as an instrument whose results, both positive and negative, must be assessed from case to case (Ruter 1986:152-153).

Distinction between Soft and Hard Drugs

The basic premise of Dutch drugs policy is to limit the extent of the risks involved in drug abuse. The government's adoption of the risks approach found its first reflection in the defacto decriminalization of the trade in and possession of small quantities of marihuana, introduced by the government in 1973. The government's rationale for this de facto decriminalization was to remove the sale and consumption of marihuana from the hard drug scene. Consistent with the risks approach, the Opium Act of 1976 draws a distinction between "drugs representing unacceptable risks," such as heroin, cocaine, LSD, amphetamines and hash oil, and "drugs with acceptable risks," such as hashish and marihuana (Ministry of Welfare, Health and Cultural Affairs 1985: 1). The government's intention was to keep the markets for hard and soft drugs separated, thereby avoiding the "stepping stone" mechanism of soft drug users graduating to the use of hard drugs. Under the Opium Act, the possession of hemp products for personal use is only a minor offense. On the other hand, the penalties imposed for national or international drug trafficking can be severe, up

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Insert Table 1 about here

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to a maximum of twelve years imprisonment. Table 1 represents the main statutory provisions laid down

in the 1976 Opium Act.

Prosecution Policy and the Expediency Principle

The 1976 Opium Act asks for high sentences for trafficking and preferably help rather than punishment for addicts. In its content, the Opium Act is not all that different from drug legislation in other Western countries (Van Atteveld 1988). The Netherlands differs from other nations, though, in the existence of national guidelines which prescribe the criminal justice policy to be pursued by police and prosecution authorities in case of drug offenses under the Opium Act. In order to understand the implications of such guidelines, one has to be familiar with the so-called expediency principle in Dutch law. The expediency principle laid down in Articles 167 and 242 of the Code of Criminal Procedure empowers the Public Prosecutions Department to refrain from bringing criminal proceedings if there are weighty interests to be considered ("grounds deriving from the public good") (Ministry of WHC 1985: 1; Pieterman 1985). Consequently, a significant part of all crimes which could be proven and punished are routinely "administratively dismissed." The principle of expediency may be applied in decision-making about individual cases, but it is also used to develop national guidelines for the investigation, prosecution and sentencing of entire categories of offenses. For example, guidelines exist for the investigation and prosecution of offenses such as the illegal possession of arms, pirate broadcasting, and exceeding the speed limit. National guidelines regarding the intensity of police investigation, the use of police custody and preventive detention, prosecutorial alternatives (dismissal, fine, or prosecution) and penalties involving violations of the Opium Act were established by the Procurators-General in 1976. Table 2 provides a simplified overview of the main components of the 1976 Opium Act Guidelines.

Insert Table 2 about here

Although the goal of the guidelines is to achieve uniformity in police and prosecutorial practices, criminal justice agencies do not have to follow these guidelines. For instance, public order considerations may result in local drug-focused police activities that are not within the national guidelines. There is no

doubt, though, that these prosecutorial guidelines have largely determined current Dutch police and prosecutorial practices regarding drug offenses. In 1987, the Dutch Procurators-General have renewed their endorsement of these guidelines.

The guidelines' scale of priorities corresponds to the distinctions between hard and soft drugs made in the Opium Act. Accordingly, detecting the import and export of drugs representing unacceptable risks takes the highest priority whereas detecting the possession of hemp products for personal use takes the lowest priority (Ministry of WHC 1985:1). Investigation and prosecution of soft-drug violations in general is assigned a low priority, with the exception of the import and export of large amounts of soft drugs (Anjewierden and Van Atteveld 1989:9). The guidelines differentiate between the possession, dealing, and import or export of small amounts for own use and the possession, dealing, import or export of drugs for primarily commercial purposes; and between large commercial dealers and those who only act as couriers.

The application of the expediency principle in the Netherlands is an integral part of a pragmatic prosecution policy. The law steps aside, as it were, in cases where prosecution would have no beneficial effect in reducing the risks involved. This may be the case, for example, if criminal proceedings against users of hemp products would create more problems for them than would be solved (Ministry of WHC 1985:2). Consistent with this principle of harm reduction, three general areas have been identified as not to be prosecuted (De Beaufort 1988:4). These areas are briefly discussed below.

1. Possession of a Small Quantity (.5 gram) of Hard Drugs for Personal Use. Simply using drugs is not a crime. The emphasis for police action based on the Opium Act should be to do something about secondary crime and public order problems, not the presence of drugs. The guidelines do not condone harassment of hard drug addicts. The guidelines indicate no specific police investigation, no preventive detention and as a rule no prosecution of hard drug users, unless they have committed other crimes. Providing assistance is to be the main priority for this category of hard drug users.

2. Sale of Marihuana in Small Quantities by a Housedealer or Coffeeshop. The guidelines give a 'lower priority' to the investigation and prosecution of retail dealing in soft drugs. That is, police and prosecutor only are to confront dealers when they publicly advertise or conduct their business provocatively

in any other way (Ulrich 1986:55). Criminal prosecution is to take place only after consultation between the police, the mayor, and the local prosecutor.

The guidelines discuss the housedealer in the section regarding small scale ("retail") dealing in soft drugs. The housedealer is a person who has acquired the right to sell small quantities of soft drugs in a youth center. The objective of allowing the sale of marihuana in youth centers by a housedealer is to accomplish a strict separation between the settings or markets in which hard drugs and cannabis circulate (De Beaufort 1989). Presently, most of the small-scale soft drug dealing takes place in so-called coffeeshops. Whoever buys or sells marihuana in a coffeeshop is guilty of violating the Opium Act. Whether this violation will result in police investigation and prosecution depends on the local circumstances. Generally speaking, if there is no sale to minors, no sale of hard drugs, no public advertising and no criminal record of the owner, the police will not intervene. If the drug dealing causes problems (i.e., public nuisance, sale of hard drugs, public advertising), the primary policy instruments are to be local administrative measures (such as withdrawing permits to serve drinks or food). If these measures do not have the desired results, the involved parties will receive a warning. If the warning has no results, criminal punishment is still not viewed as the only alternative. Instead, the drugs may be confiscated. Only very infrequently is unconditional imprisonment the consequence. In general, the retail dealing in soft drugs is treated like an economic violation, rather than a criminal offense (De Beaufort 1989).

3. Dealing, Possessing or Producing a Maximum of 30 Grams of Marihuana. According to the Opium Act, this is a misdemeanor, punishable with a maximum of 1 month detention or a fine. The guidelines, however, indicate no police investigation, no arrest, and no prosecution.

Drug Addiction Primarily a Public Health Problem

Dutch government policy has consistently pursued a two-pronged approach with regard to drugs: treatment and assistance for the user and punishment for the commercial dealer (Engelsman and Wever 1986:74). The foundation of this two-pronged approach is the belief that addiction is a phenomenon that can not be controlled through criminal justice measures (Van Cappelle 1988). The 1976 Opium Act is closely linked to the body of Dutch medical legislation and reflects the view that criminal law plays only

a minor part in preventing individual drug abuse. Drug trafficking and drug-related criminality, on the other hand, are viewed as appropriate targets for criminal justice intervention.

Responsibility for implementing the Opium Act rests jointly with the Minister for Welfare, Health and Cultural Affairs and the Minister of Justice. However, because use is viewed primarily as a health problem, the Opium Act assigns the primary coordinating role to the Minister of Welfare, Health and Cultural Affairs. The Opium Act conceives of the contribution of the Minister of Justice as complementary and as focused primarily on combatting (international) drug trafficking (Reitsma 1989).

The government's viewpoint is that drug policy should be aimed primarily at the improvement of the physical and social functioning of the addict. Indeed, its main objective is to "prevent and neutralize the risks resulting from the use of drugs to the addict himself, people in his immediate environment and society at large" (Engelsman and Wever 1986:75). Significant from a comparative perspective is that the main policy objective has been the prevention of risks, rather than termination of the addiction.

Consistent with its public health emphasis, the Dutch have spent considerable amounts of money and effort on a wide variety of treatment programs. The main focus has been to increase the easy availability of assistance through methadon programs, street corner programs, "low threshold living room projects," needle exchange programs and the administrative decentralization of drug treatment programs (Engelsman and Wever 1986:74).

Not only does the Netherlands have a larger variety of programs compared to most other countries, it also differs in its relative tolerance of users. The main objective of treatment is to improve the physical and social functioning of the addict--without forcing them to stop drug use (Engelsman 1988:6). The government's willingness to give assistance to addicts who do not--for the time being at least--see any likelihood of establishing a drugfree lifestyle is indicative of the realistic (pragmatic) approach of the Dutch to the drug problem (Ministry of WHC 1985:3). The Dutch government has always rejected the idea of compulsory treatment of any kind (but see next section for recent developments).

One of the basic principles of Dutch drug policy has been to keep the addict population accessible to service providers. From its inception in the early seventies, then, treatment of addicts in the Netherlands

typically has taken place outside the realm of the criminal justice system. As a result of this philosophy of tolerance and approachable, low threshold services, it is estimated that some 70 to 80% of addicts in the Netherlands receive some form of assistance, as compared to an estimated 10 to 15% in the United States.

RECENT CHANGES IN DUTCH CRIME AND DRUG POLICIES

Until the second half of the seventies, the Dutch penal system was characterized by its relative mildness relative to other Western countries: there were relatively fewer prisons, fewer inmates, and lower prison sentences. (See, for example, Brand-Koolen 1987.) This trend was reinforced by the attempt to further decrease the use of short prison sentences by expanding the conditions under which fines could be used. Proposals to reduce the use of pre-trial detention were made and the right to free counsel for indigents was established. It was in this time period that a deliberate choice was made for a drug policy based on a medical-social rather than a criminal justice approach. However, by the beginning of the 1980's, the pendulum started to swing in the direction of a more punitive, "get tough" approach to crime in general, and drug offenses in particular (Marshall 1988). In the paragraphs below, we highlight the most important recent developments in Dutch drug control policy--developments which, in our view, are consistent with the generally more punitive penal climate characteristic of the Netherlands of the eighties.

Erosion of Due Process to Control Drug Trafficking

Parliamentary approval of a government bill to amend the Opium Act has made it possible to step up efforts to combat national and international trafficking in hard drugs. According to the 1985 extension of the Opium Act, apart from trafficking itself, activities carried out preparatory to trafficking in hard drugs are to be treated as a criminal offense. (Generally speaking, conspiring to commit a crime is not illegal in the Netherlands.) Furthermore, all persons who attempt to import drugs into the Netherlands, make preparations to do so or assist another to do so, are liable to prosecution in the Netherlands, regardless of their nationality, and are punishable with a prison sentence up to six years. Under the 1985 version

of the Opium Act, the jurisdiction of the Dutch courts has been extended to include preparatory acts that took place abroad (Ulrich 1986:38-39).

These newly added provisions have significantly extended the powers of the police and the prosecution regarding the investigation and prosecution of drug offenses. Some have criticized the 1985 extension of the Opium Act as "...an exaggerated reaction" to the drug problem (Ruter 1986:154; See also Haentjes 1984; Hulsman 1984; Van Vliet 1986). A significant group of Dutch legal scholars, social scientists, and practitioners have argued that citizens' due process rights are being gradually eroded by the expanded powers of the 1985 Opium Act. In their view, the pre-occupation with international drug trafficking has led to a "coarsening" of the Dutch criminal justice process (Van Vliet 1986:480). Enforcement of the Opium Act has encouraged the use of intrusive methods of investigation, such as phone tapping, infiltration, "controlled delivery," and "buy and bust"--methods which go contrary to established Dutch legal principles (Van Gemert 1988). A recent statement by the Minister of Justice makes clear that "very serious" violations of the Opium Act may justify the violation of suspects' constitutional rights regulating the entering of private dwellings by the police. If there is no reasonable alternative way to solve serious violations of the Opium Act, strict compliance with suspects' constitutional rights is not necessary, in the Minister's view (Silvis 1987:324-5).

The courts have become more willing to admit illegally obtained evidence. Although the guidelines indicate that drug addicts with small amounts of hard drugs for their own use should not be arrested or kept in pre-trial detention, the police violates these guidelines in order to try to get at the hard drug dealer via the addict. Arrest for the purpose to obtain statements against drug dealers is illegal according to Dutch law (Ruter 1986:164). By admitting the written testimony of anonymous drug users in court, the position of the accused in court proceedings has gotten weaker.

Another development reflecting an apparent erosion of due process protections in the Netherlands is the recently accepted proposal to expand the applicability of measures aimed at taking away illegally obtained financial gains. [1] Although this proposal has met with severe criticism (De Doelder 1989; Groenhuijsen and Van Kalmthout 1989b), it appears that, consistent with international trends, skimming

illegally obtained financial gains has become an important policy priority in the Netherlands.

A final example of the impact of tougher drug legislation on general criminal justice policy in the Netherlands concerns proposals for the expanded criminalization of preparatory acts. When the Opium Act was modified in 1985, the government had promised to limit the criminalization of preparatory acts to particular drug-related actions only. Within two years, however, a committee was established to examine the desirability of expanding the law regarding preparatory acts to include several other serious offenses.

More Police Concern with the Addict as a "Public Nuisance"

Although certainly of crucial importance, the Netherlands' increased concern with the drug problem has not remained limited to large-scale drug trafficking. The last few years, reducing feelings of discomfort and fear among the public confronted with the sight of addicts openly using and dealing drugs, used needles laying in the streets, and other visual images typical for "the scene" has become a more important policy priority. (See Kerksloot and Musterd's 1987 study on how the presence of addicts influences the public's perception of the livability of Amsterdam). Without a doubt, in recent years, local and national level policies nave become increasingly concerned with fighting the public order problems resulting from drug use.

A good case in point is the 1984 decision by the Amsterdam city council to expand the role of the police in the city's drug control plans. In 1985, the Drug Division of the Amsterdam Police Department was significantly expanded. A special unit was established to deal more effectively with local drug dealing (Korf 1987: 14). As a result of intense police surveillance, the Zeedijk (the center of the Amsterdam "scene") was "swept clean," resulting in more complaints about increased hinder created by the displaced addicts in surrounding neighborhoods. In order to reduce the drug-related criminality and public order problems associated with "street junks," Amsterdam established in the summer of 1987 special policy rules for the arrest, preventive detention, and execution of prison sentences for addicted offenders hanging out on the Zeedijk. A specially targeted group of "street junks" was given processing priority by the Amsterdam police and Prosecutor's Office. A speedy trial and immediate execution of sentence were to remove recidivating addicts from the streets. Evaluation of the policy suggests that the number of arrests has

indeed increased, but that lack of personnel and prison cells have resulted in important logistic problems. The 1988 government-sponsored Amsterdam project "Street Junks" further builds on the notion of selective targeting of a group of about 300 or 400 Amsterdam addicts thought to be responsible for the criminality and perceived lack of safety in the center of Amsterdam (Gemeente Amsterdam 1988). The authority of railroad police and special functionaries of the municipal public transportation system has also been extended in order to enable them to be more effective in controlling the public order problems caused by addicts (Korf 1987). The re-introduction of entrance gates near the train and metro stations in Amsterdam aimed at preventing addicts without a valid ticket from entering these places is another sign that Dutch authorities are beginning to take harder measures to control the nuisance problems caused by drug addicts. (See also Hamburger 1989 for a discussion of the use of Article 219 of the Amsterdam City Code to increase police authority to order drug addicts to remove themselves from the scene and not come back for as long as 14 days).

More Incarceration of Drug Addicts and Expansion of Prison Capacity

The number of prison sentences in the Netherlands has been increasing steadily over the past decade (Ministry of Justice 1985), but this increase has been particularly marked for drug offenses. [2] One quarter of all prison sentences of 1 to 3 years and over one third of all prison sentences of more than 3 years are imposed for drug offenses (Ruter 1986:161). (See Meyboom 1987 for a discussion of drug users in Dutch remand centers.)

According to 1985 figures, on an average day, about one-third of the inmates in Dutch prisons and jails are addicted to heroin and/or cocaine (Erkelens 1987:107). There has been a steady increase in these figures. In 1980, 23% of the inmate population was addicted, but in 1982, this figure had increased to 25-30%. According to 1985 estimates, over 36% of all inmates had clear connections with hard drugs, either as user, dealer, or user/dealer (Erkelens 1987:108). These figures do not include drug-related crimes. Ruter (1986:162) estimates that, "almost half of the prisoners in the Netherlands are in some way connected with a drug (related) crime."

The statistics concerning the growing proportion of addicted inmates in Dutch prisons reveal a distinct

The statistics concerning the growing proportion of addicted inmates in Dutch prisons reveal a distinct shift in the direction of a more criminal justice-oriented approach to drug users: "Despite a policy which according to the Ministry of Justice concentrates on drug trafficking, it is increasingly the individual addicts who are receiving the custodial sentences" (Ruter 1986:161).

Present Dutch government policy aims at a quick expansion of prison capacity (Ministry of Justice 1985). A comparison with trends in other areas of government policy shows that expenditures in the area of criminal justice in general and prisons in particular have first priority (Van Tulder 1986:303). In 1988, the Netherlands had about 5,500 prison cells available. New prison construction will result in an increase to about 7,300 by 1990. According to Ministry of Justice estimates, about 60% (1,200 cells) of this increase is needed for drug criminals (Van Capelle 1988). For a society which historically has been very reluctant to use long-term incarceration for offenders, the current emphasis on new prison construction represents a significant shift in criminal justice policy, indeed. [3]

Expansion of the Role of the Ministry of Justice

Since the departure of one of the leading figures of the Ministry of Health, Welfare, and Cultural Affairs, the Ministry of Justice has clearly taken the lead in formulating drug policy, resulting in an increasing importance of a criminal justice approach to drugs. It should be noted that the Ministry of Welfare, Health and Cultural Affairs has strongly resisted this move in the direction of a more punitive, criminal justice-oriented approach. Often, the disagreements between the two ministries have become public and the public image of Dutch drug policy is becoming increasingly confused. Reflecting the current sense of ambiguity among Dutch policy makers are the completely contradictory statements about Dutch drug policy given repeatedly by the Minister of Justice (Anjewierden and Van Atteveld 1988; Van Atteveld and Simmelink 1986).

Without a doubt, the Ministry of Welfare, Health and Cultural Affairs has been losing ground to the Ministry of Justice with respect to determining national drug policy. In an insightful analysis, Van Vliet (1986) has characterized current Dutch drug policy in terms of an "intensification of the criminal justice approach." In his view, civil drug programs and policies are now playing only second fiddle to the criminal

justice-based "war on drugs" efforts to combat international drug trafficking. This shift in priorities is clearly reflected in recent budgetary decisions. Following the recommendations of the 1985 government policy plan Society and Crime, the government has allocated large sums of money for the control of drug trafficking. The Ministry of Welfare, Health and Cultural Affairs budget for prevention of drug abuse and assistance projects to drug addicts, on the other hand, has not benefitted from such monetary boosts (Van Vliet 1986:486). Another example of the declining policy role of the Ministry of Welfare, Health and Cultural Affairs is that its Special Commission for Drug Policy (a permanent advisory commission) was not involved in the preparations of Society and Crime. A peculiar oversight in view of Society and Crime's heavy focus on drugs (Van Vliet 1986:480).

The call for an intensification of the criminal justice approach to drugs resonates through the recent (1988) report of the Scientific Council for Government Policy with its recommendation that drug treatment--which always has taken place outside the realm of criminal justice intervention--should become more integrated with the criminal justice response to drugs (Wetenschappelijke Raad voor het Regeringsbeleid 1988:81-88). In spite of recurrent calls for forced treatment of addicted offenders, the government so far has not changed its position that coerced treatment is incompatible with the principle of responsibility and self-determination of all citizens. How much longer the government is willing or able to resist the increasing demand for non-voluntary treatment of addicts in the current climate of toughening of criminal justice policies, however, remains an open question. It is only reasonable to expect that the increasing repressive response to drug traffickers may be extended to include the users market.

"Normalization" of Drug Use: Responsibility and Reciprocity

Today, the optimistic confidence in increasing assistance to drug users as the solution to the drug problem that characterized the seventies has disappeared (Leuw 1987:18). Drug treatment in the eighties has become less idealistic, more business-like. Leuw has characterized this shift in treatment philosophy as the "commercialization" of drug treatment. Intramural treatment aimed at "kicking the habit" continues to lose ground (Korf 1987:15), but outpatient programs such as field work on the streets, in hospitals and in jails; open-door-centers for prostitutes; the supplying of the medically prescribed substitute drug

methadone; needle exchange programs; material support, and social rehabilitation opportunities continue (Engelsman, 1989).

The current view among policy makers is that the goal of harm reduction is not supported by more and more treatment. This notion is consistent with the principle of normalization which became the key concept of government drug policy in 1985 (ISAD 1985). The Interministerial Steering Group on Alcohol and Drug Policy (ISAD) published in 1985 a memorandum entitled Drug Policy in Motion: Towards a Normalization of the Drug Problem. In brief, the concept of normalization entails a gradual process of controlled integration of the drug phenomenon in society. Integration does not mean acceptance (Engelsman 1988:). However, the phenomenon of drug use should be "shorn of its sensational and emotional overtones" (Engelsman 1988:15). Being a "junkie" should be de-mythologized and de-glamorized. In the words of the Head of the Alcohol, Drugs and Tobacco Branch of the Ministry of Welfare, Health and Cultural Affairs:

> The less "meaning" authorities attach to the drug phenomenon, the less "meaning" it generates for addicts. This indicates that drug takers or even addicts should neither be seen as criminals, nor as dependent patients, but as "normal" citizens of whom we make "normal" demands and to whom we offer "normal" opportunities. Addicts should not be treated as a special category. (Engelsman 1988:15)

Normalization stresses the importance of assuming reciprocity and mutual responsibility in treatment; to reduce as much as possible the specialized approach to drug problems; and not to accept addiction as an excuse for criminal behavior (Leuw 1987: 18). Too long has addiction been used as an alibi for undesirable behavior; users have been coddled too long (Ministry of Justice 1986). In the view of many, there are now ample free, low-threshold assistance programs available which allow drug users to control their addiction without the necessity to resort to crime to support their habit. If addicts choose to get involved in drug-related crime anyway, then they should be held completely accountable for their behavior (Buning, personal communication, March 1989).

DOMESTIC CAUSES OF TOUGHER DRUG POLICY

In the foregoing paragraphs, we have highlighted several recent developments in the Netherlands some of which suggest a distinct shift in the direction of a more punitive approach to violators of the Opium Act. Curiously enough, this apparent toughening of drug policies can not be explained by evidence of recent increases in drug addiction or drug use in the Netherlands. As a matter of fact, examination of available statistics suggest that drug use in the Netherlands has stabilized or even decreased, rather than increased.

Estimates regarding the number of heroin users have steadily increased since 1974, but starting in the early eighties, the number of heroin addicts has stabilized at a level of between 15,000 and 20,000 people (Van Cappelle 1988). Current research even suggests that there has been a slight decrease in the number of heroin addicts. For example, a recent study found the number of addicts in Rotterdam to be around 2,500 which is quite a bit below previous estimates of 3,500. Also, the mean age of drug addicts has increased. In Amsterdam, for example, the average age of the addict population increased from 26.8 in 1981 to 30.1 in 1987 (Buning and Van Brussel 1988: 13). This implies that fewer younger people are starting a career of drug use, suggesting that the total number of users is beginning to decrease. The common fear that more and more young people, at younger ages, will get involved in drugs, is not borne out by these statistics. These figures are based on estimates by the police and social service agencies. The easy accessibility of drug assistance programs in the Netherlands makes it unlikely that these figures under estimate the incidence of drug addiction (Leuw 1987:21).

The number of drug-related deaths (about 75 a year) has also remained fairly constant. Valid data on hard drug use which allow direct comparison between different countries are virtually non-existent. It appears that hard drug use in the Netherlands is less rather than more of a problem compared to other European countries (Leuw 1987:22). And the same holds true for soft drugs. In 1976, in a survey of highschool students between 12 and 18 years, 3% admitted to regular use of marihuana. A 1984 survey reported considerably less self-reported marihuana use than in 1976. In the 1984 survey (n = 25,000), 2.5% of the respondents under 19 had ever tried marihuana, and the number of daily users was estimated to be .1% of the population (Van Cappelle 1988). When compared with surveys in the United States and

Germany, Dutch youth appears to be less likely to admit to ever having used marihuana than their German or American counterparts (Leuw 1987:23).

Qualitative shifts in the kinds of drugs used could trigger a get tough campaign even if overall levels of drug use stabilized or even declined. The current "war on drugs" proposed by President Bush is a case in point. According to recently released American data, the number of people admitting to using drugs has decreased over the last few years; however, among those who use drugs, the frequency and intensity of drug use has increased. The recent introduction of "crack" into the large American cities, in particular, is viewed as the cause of increased inner-city crime, violence and gang activities. It is the sudden popularity of crack cocaine which has triggered the present American pre-occupation with drugs. There is no doubt that crack cocaine has significantly altered the nature and seriousness of the problems associated with drugs in the United States. A comparable change in the quality of drug use has not occurred in the Netherlands, however. Although crack has been made available to the Dutch drug user, it has found virtually no takers. This reluctance to try new drugs is, incidentally, typical for Dutch drug users. New and different drugs are around, but the user is very hesitant to experiment with them (Grapendaal 1989; Van Capelle 1988). Several of the "classical drugs," such as LSD and amphetamines have virtually disappeared (Van Capelle 1988). There has been an increase in the use of cocaine, but without causing enough problems to give rise to public concern. Current drug use in the Netherlands is further characterized by the simultaneous use of multiple drugs (polydrug use). Very few addicts limit themselves any longer to only one type of drug. The most common combination is heroin and cocaine (Grapendaal 1989), often in conjunction with prescription drugs (e.g., Valium, Vesparax, Rohypnol and Seresta). Most policymakers view the use of prescription drugs by drug addicts as consistent with the overall rise in use of medication among the general population in modern society (Nelen 1989). Thusfar, Dutch policymakers have not used qualitative changes in drug use as a reason for toughening drug control policies. [4]

Drug policy is determined by more than rates of drug abuse alone. A toughening of drug control policy would make sense, for example, if drug-related criminality had increased significantly. Interestingly, recent research has found that Dutch addicts commit less crime than was commonly assumed (Grapendaal

1989).[5] Another common concern is that drug trafficking provides a lucrative source of income for criminal syndicates. Although there has been more focus on organized crime in the Netherlands since the 1985 publication of Society and Crime (see next paragraph), it appears that organized crime has not begun to replace individual drug-selling entrepreneurs. According to recent government research, there may be a beginning emergence of Mafia-like structures in the Netherlands, but organized crime is responsible for only a small part of all criminality (Fijnaut 1989). [6]

In the absence of recent dramatic changes in drug use, drug-related crime or increased involvement of organized crime in drug trafficking, there must then be other reasons to explain the toughening of Dutch drug control policy. Indeed, we have to view these changes in drug control policies against the backdrop of the generally more punitive penal climate that emerged in the Netherlands in the mid-eighties. This shift in policy is best exemplified by the content of the 1985 government policy plan Society and Crime (Ministry of Justice 1985).

The 5-year plan presented in Society and Crime views it necessary to "strengthen the criminal justice function." The report cites several reasons for this need. First, there has been a significant increase in criminality. Second, there is a substantial gap between the number of criminal acts committed and the number of criminal justice responses; the low risk of punishment has reduced the preventive function of the criminal law. And thirdly, the report continues, there has been an increase in the amount of organized criminality, particularly related to drug trafficking. Organized crime is viewed as largely responsible for the increase in theft (i.e., drug-related crime) and assault. The report focuses primarily on the need to increase the criminal justice response to organized crime. More severe criminal justice penalties are needed to make the Netherlands less attractive to these serious criminals, according to the plan. Also, since the criminal justice system is rapidly losing its credibility among the Dutch public, the criminal justice apparatus needs to be re-adjusted (i.e, become more hard-line) at all levels (Ministry of Justice 1985).[7]

One important reason for the change in penal climate is that like most other Western countries, the Dutch government has been facing an economic crisis with the inevitable budget cuts. There simply is less money available for criminal justice and social welfare organizations than before. Economic considerations

demand more efficient ("productive") criminal justice procedures and the reconsideration of expensive programs.

Limited resources and budget cuts were not the only reason for the general shift in crime control policy. Another important factor was the discovery of crime control as an important electoral issue by Dutch politicians. Politicians appealed to the public's fear of crime--fear fueled by a sudden emphasis on crime by the mass media.[8] The resulting gap between political portrayals of "the crime problem" and reality caused politicians and mass media alike to emphasize even more the importance of efficient crime control (Fijnaut 1988). Importantly, the pre-occupation with crime control has become more and more focused on the view that drug trafficking is a major source of the crime problem.

There are two reasons why drug control has been singled out for special attention by Dutch politicians concerned about crime. First, there appears to be a clear link to the new cost-cutting model of crime-control necessitated by recent budget cuts. The profits of drug trafficking in the Netherlands are estimated to be around 2 billion dollars annually (Van Dijk and Roell 1988). Drug control may turn out to be a profitable business for the government: by claiming the huge profits involved in drug trafficking, drug control will more than pay for itself (Silvis 1984). But budgetary motives alone are not sufficient to account for the current political emphasis on tougher drug control measures in the Netherlands. Indeed, the profits from other forms of criminality, particularly of economic fraud, are significantly more substantial than drug-related profits (Nederlands Economisch Instituut 1988). Combatting economic fraud, however, is not something that is an unanimously agreed upon priority in the international community. Drug control, on the other hand, has become a central concern of the international political community. This brings us to our next point, namely that domestic economic and political motives provide only a partial explanation for the recent emphasis on stricter drug control policies in the Netherlands. In our view, developments in Dutch drug policies can only be fully understood against the backdrop of the internationalization of drug control and the position of the Netherlands in several key international commissions.

INTERNATIONAL PRESSURES ON DUTCH DRUG POLICY

Several international political forums are involved in formulating drug control strategies. The Netherlands participates in several international drug treaties; the most important one is the Single Convention on Narcotic Drugs of 1961. [9] It was not until 1987 that the Netherlands entered into the Protocol to Modification of the Single Convention of 1972. [10] The Netherlands is in the process of adjusting national legislation in order to be able to enter into the Convention on Psychotropic Drugs of 1971 and it has recently joined the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (Tractatenblad 1989, nr. 97).

Historically, the input of the Netherlands in international drug treaties has been of little importance. That is not surprising in view of the fact that its distinct pragmatic or liberal approach to drugs appeared to deviate significantly from the drug policies of most other countries. According to formal policy guidelines, the Dutch assign only low priority to the detection and prosecution of violations of the Opium Act involving soft drugs (with the exception of import and export of large quantities of soft drugs). The government's formally expressed tolerance of hard drug use also put the Netherlands at odds with its neighbors. The frequent and consistent application of the often unfamiliar and misunderstood Dutch legal principle of expediency has further reinforced the deviant position of the Netherlands in the international community. It is not surprising that the position of the Netherlands at the international level became increasingly isolated. Till the early eighties, Dutch drug policies appeared to move farther and farther away from drug control strategies in other Western countries where a gradual shift in the direction of stricter drug control measures was taking place.

The Netherlands contributed to its isolation by exaggerating the liberal image of its drug policies in international communications (Van Atteveld 1988). In the view of many international politicians, the Dutch isolationist position was not limited to its approach to drugs. Dutch liberal policies with regard to euthanasia, prostitution, abortion, and pornography also clearly deviated from other countries, which further reinforced the perceived isolated position of Dutch drug policies. Although Dutch officials remained supportive of the philosophical foundations of these policies, they gradually became aware of the

consequences of this isolation, not only politically but also economically. It is our view, then, that a growing dissatisfaction with its isolated position in the international community has been a significant push towards the introduction of a more repressive drug policy by Dutch government officials.

National economic interests, rising crime rates, and the electorally useful "get tough" approach to crime have further reinforced the mounting international pressures on the Netherlands to develop drug control measures more in line with the rest of Western society. In the following section, we discuss in some detail how the Dutch are gradually losing their isolated position in the international community. Since our purpose here is simply to illustrate the growing significance of the internalization of drug control for the development of Dutch national drug policies, we limit our attention to only a few recent developments in the United Nations and the European Community.

The Netherlands and the United Nations

The position of the Netherlands within the United Nations has definitely become more mainstream with regard to the control of international drug trafficking. This becomes particularly evident in the changed position of the Netherlands in The Commission on Narcotic Drugs. This commission is the most important policy-making body in the area of drugs. In February 1988 the Netherlands has been elected in the presidium of the Commission on Narcotic Drugs and since February 1989, the Netherlands is vice-chairing the presidium. It is reasonable to expect that this election of the Netherlands in the presidium of the Commission on Narcotic Drugs will result in stronger pressures on Dutch drug policies. In order to maintain her position in the Commission, the Netherlands cannot afford to deviate too much from the policies in other countries, which may result in a more repressive approach to drug problems (Anjewierden and Van Atteveld 1988).

Only a short time ago, it would have been unthinkable that the Netherlands would have a leading position in the Commission on Narcotic Drugs. The most plausible explanation for the improved position of the Netherlands in this forum is the emergence of the AIDS problem. The Dutch willingness to take unorthodox measures such as the low-threshold needle exchange programs, ambulatory methadon programs, and an accessible extensive network of drug treatment services appears to have had positive consequences

for the containment of AIDS in the Netherlands (Wever 1986). Compared with the situation in other European countries and the United States, the percentage of drug users with the Aids or HIV-virus in the Netherlands is low (Engelsman 1987, 1988). [11]

The fear of AIDS apparently is stronger than the moral condemnation of drug use. At least with respect to the adoption of AIDS-preventative measures, the drug control practices of several countries have become closer to the Dutch model in the last couple of years. Countries known for their intolerant approach to drug use such as France and Germany have recently begun to experiment with easier availability of needles and methadon programs on a limited scale.

The Netherlands and Europe

It is difficult to determine the exact position of the Dutch with regard to their drug policy in the European Community. One problem complicating the determination of the position of the Netherlands is that the Pompidou Group, the only organization within the Council of Europe involved in all aspects of drug control, keeps its deliberations with regard to drug control secret. (The United States is also involved in this group, albeit on an ad hoc, technical basis.) Nonetheless, interviews with selected Dutch government officials indicate that there is increasing understanding and appreciation for the Dutch way of managing the drug problem in this political body:

> In 1984 we were still having a hard time. We were attacked, because we are not oriented to make addicts kick their habits, but rather, to make addicts participate reasonably in society. All countries used to strongly reject methadon treatment. Recently, one has become interested in the results and the method is no longer rejected (Engelsman 1987, our translation).

(See also interviews in Le Soir, June 15 1987; NRC - Handelsblad, January 22 1987, and De Telegraaf, January 21 1987.) Apparently, the comparatively low incidence of addicts with the AIDS and Hepatitis-B virus has played an important role in encouraging other EC countries to follow some of the Dutch drug policy programs.

The drug policies supported by the Pompidou group have become increasingly consistent with the Dutch model. That is shown in the conclusion of the November 1986 report of the Pompidou Group. The view reflected in the report of the Pompidou group is that the criminal law has only a secondary function with respect to drug users--primary emphasis should be on providing assistance. Drug trafficking, on the other hand, should primarily be controlled by means of the criminal law.

The lack of openness about decision-making processes in international political bodies such as the Pompidou Group is not the only difficulty involved in examining the dynamics of international policy-making. Another complicating factor is that the European Parliament consists of political factions with a shared ideological basis, rather than of nation-based parties. Discussion of the drug problem in the European Parliament has been highly politicized and reflects the national boundaries-crossing ideological differences between parties. In spite of the heated debate on the 1986 Stewart-Clark report[12] about drug problems in the European Community, there still is no consensus on the best drug control policy among the members of the European Parliament. Regardless of their national origins, the conservatives and Christian Democrats tend to be strong supporters of a hard-line "war on drugs" approach, and Social Democrats, communists, and members of the Greens argue for a "normalizing" approach to drug control. Interestingly, even the liberal faction of the European Parliament has been internally divided about the position of the Netherlands. It is not surprising then, that in the European Parliament the opinions remain divided between the proponents of the "war on drugs" and the liberal supporters of a drug policy aimed at normalization. Yet, in the last few years, there appears to be increasing room for a less ideological, more nuanced discussion about drugs in this political body, which is quite a shift from only three years ago when a very repressive section on drugs in a report on international criminality was accepted unanimously and without much discussion.[13]

The European Parliament is the legislative body of the European Community, whereas the Committee of Ministers of the European Community represents the executive branch of the 12 EC member states. From resolutions[14] and recommendations[15] of the Committee of Ministers, it has become apparent that its members agree that a "get tough" approach should be the basis of modern drug control. This hard-line

position of the Committee of Ministers has been accompanied by a call for extended authority of the European Parliament regarding exerting control on the drug policies of the EC. The European Parliament views the drug policy of the Committee of Ministers, generally speaking, as too repressive. Although still internally divided on many drug-related policy issues, the European Parliament is now unanimously convinced that it should get extended authority regarding the establishment of international legal measures in the area of drug policy.

The Schengen Agreement

Of particular relevance to understanding current Dutch drug policy is the Schengen Agreement. This Agreement demands harmonization of, among other things, Dutch drug legislation with its surrounding countries (France, West Germany, Belgium and Luxembourg) by 1990. This is consistent with the European Community's goal to establish an open common internal market between participating nations by 1992 (Anjewierden 1989). [16] This Agreement requires the forceful fight against illegal drug trafficking and the efficient coordination of such efforts. (See Articles 8 and 19 of the Schengen Agreement.) This translates, in effect, in the obligation to accomplish harmonization of drug policies between the participating countries (Tweede Kamer 1987-1988). These obligations of the so-called "Schengen-countries" have resulted in mutual pressures to adjust national drug legislation and policies (Van Atteveld 1989).

The Schengen Agreement proposes separate short-term and long-term measures. (Short term measures refer to the period before January 1986; long term measures refer to the period before January 1 1990 if possible--unless the Agreement specifies another time period). In the short term, the Schengen countries must seriously fight drug trafficking and efficiently coordinate their efforts. In addition, they must improve cooperation by exchanging relevant information. In the long term, the participating countries must discuss international police cooperation and the establishment of the right of the police to cross national boundaries in the pursuit of suspects (Article 18 of the Schengen Agreement). The involved nations are also supposed to strive for harmonization of legislation and legal measures in the area of drugs, weapons and explosives and registration of travellers in hotels (Article 19 of the Schengen Agreement). In order to accomplish this cooperation, representatives of the Schengen-countries meet regularly. [18] It is the

Schengen Agreement which, without a doubt, will have the most immediate and far-reaching implications for Dutch drug policy. Again, a problem is that the negotiations are secret and that little information about the negotiations becomes public.

The problems involved in attempting to arrive at international compromises about acceptable drug policies may be best illustrated by the history of conflict, tension and suspicion which characterizes the relationship of the Netherlands with neighboring West-Germany. In his recent article on the internationalization of criminal law, Silvis (1988) discusses how Dutch pragmatic drug policies have frequently met with sharp criticism by West Germany, a country which has persistently followed a "hard-line" approach to all drug abuse. For instance, in the past, West Germany has forcefully objected to the Dutch low threshold methadon programs, proposals to provide heroin to addicts, and the policy of tolerance of small scale dealing in soft drugs in coffee shops and youth centers. West Germany's interest in and concern about the "soft" drug policies of its neighbor is understandable. The Netherlands, with its less repressive penal climate, greater availability of low-threshold assistance programs, de facto decriminalization of soft drugs, and greater willingness to provide financial support to its indigents, is a more inviting place for (German) drug users than Germany. Prison statistics, police records, and observations of professionals in the field of drug treatment indicate that a substantial proportion of the addicted population in the Netherlands is not of Dutch origin, indeed. [19] Although Germany's criticism may reflect merely a concern with the well-being of its addicted citizens living in the Netherlands, it is more likely that their dissatisfaction with Dutch drug policies are based on the logistic problems of attempting to control boundary-crossing drug dealing and trafficking.

The Dutch government has attempted to find compromises acceptable to the Schengen countries (West-Germany, France, Luxembourg, Belgium and the Netherlands) by developing proposals that differentiate between Dutch drug users and foreign drug users. Although it is contrary to the Dutch constitution, these proposals will result in discrimination between Dutch citizens in the Netherlands and, for example, German citizens in the Netherlands. The Schengen countries have made an agreement to send people who are arrested for drug possession immediately to their country of citizenship. This so-called

"active transfer of prosecution" is in fact a hidden form of extradition, but without the usual due process protections of the different extradition agreements. This agreement violates the foundations of Dutch drug policy: treatment and assistance for the user and punishment for the commercial dealer.

Discrimination of foreigners is also the basis for current Amsterdam drug policy with respect to assistance to addicts. Only in cases of emergency is methadon provided to foreigners who are not permanently living in Amsterdam. Not allowing foreigners to participate in Dutch drug assistance programs is part of the "policy of discouragement" aimed at the reduction of the number of foreign drug users coming to the Netherlands. The "policy of discouragement" also includes the current proposal of the Minister of Justice to prohibit the sale of soft drugs to foreigners in coffeeshops (Silvis 1988:331).[20]

TOWARDS AN "AMERICANIZATION" OF DUTCH DRUG POLICY?

Without a doubt, international pressures such as those described above, have contributed to a certain re-direction of policies to control drug use in the Netherlands. The differences in drug control practices between the Netherlands and other Western countries have diminished. Longer prison sentences, expansion of the Opium Act, extended police powers, increased discussion about coerced treatment, and a more restrictive soft drug policy (Silvis 1988:329) have moved the Netherlands closer to the mainstream in the international drug debate. It is not to be denied that international harmonization is an important and positive goal. However, if it means that the Netherlands has to compromise its rational and successful drug policy, the price may be too high.

We started this essay with a question: Are the Dutch moving towards an "Americanization" of their drug policies? Our answer to this question remains no, in spite of the apparent erosion of due process and the intensification of the criminal justice approach to drug use. Recent developments notwithstanding, the Dutch approach to crime control remains, first and foremost, pragmatic. Although Dutch officials now make more frequent political statements with ideological overtones than some five years ago, most of the recent shifts in Dutch drug policy reflect pragmatic adjustments rather than moral indignation. Unlike the United States, getting rid of drug use per se is not the primary policy objective in the Netherlands. The pragmatic emphasis of Dutch drug policy is clearly illustrated by its current selective orientation towards

(1) getting at the profits of drug trafficking, (2) minimizing public order problems resulting from drug use, and (3) attempting to conform to international demands for more repressive measures.

The philosophical foundations of harm reduction and tolerance are too deeply embedded in Dutch culture to be turned into a "war on drugs" American model overnight. We feel confident that the Netherlands will not simply abandon its pragmatic drug policy in exchange for an ideologically-based drug war.

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FOOTNOTES

1. The final report of the Commission on Financial Aspects of Serious Forms of Crime, established in 1985, proposed a set of far-reaching legal instruments enabling the skimming off of criminal profits. A second advisory committee, the Commission on Legislative Projects on Property Sanctions, recommended in its 1988 final report even more sweeping measures. For example, under certain conditions, even cases that are dismissed in criminal court may be forced to pay a significant amount of money. The prosecutor is also able to negotiate with the accused about the amount of the fine. In cases where the accused is convicted of a serious crime (i.e., a crime with a maximum penalty of 50,000 dollars), there is a reversal of the burden of proof with respect to the origins of the property of the accused. These proposals represent a profound change in established Dutch criminal procedure.

2. In this context, it is interesting to refer to a 1985 analysis of 1,042 Opium Act violations which indicates that the actual treatment of violators of the Opium Act by the Dutch criminal justice system is still more lenient than the guidelines recommend (Rook and Essers, 1988). For example, the prison sentences for those who deal in hard drugs for commercial purposes tend to be significantly shorter than the minimum length suggested by the guidelines and over half of such cases that result in an unconditional prison sentence is below the guidelines' minimum.

3. It should be noted, though, that the Netherlands still has the lowest incarceration rate of the Western world with 34 inmates per 100,000 population (as compared to a rate of 147 per 100,000 in the United States).

4. There have been occasional emotional public debates about the increased use of prescription drugs. For example, two years ago the drug Rohypnol became suddenly quite popular among drug users. It soon became apparent that this drug was related to aggressive behavior. This was not used as a reason for a tougher drug policy, though. First, drug users soon lost interest in this new drug. Second, it was soon discovered that this drug was associated with aggression mostly when used in conjunction with alcohol--not with illegal drugs (Nelen 1989).

5. Grapendaal (1989) concludes that about 37% of a group of about 150 Amsterdam regular drug users was involved in drug-related crime. About 20% of the addicts' total income was the product of criminal activities. Other important sources of income are prostitution (22%), drug dealing (18%), and welfare (28%).

6. The Centrale Recherche Informatiedienst (CRI) has analyzed some 200 criminal groups in the Netherlands. They used the following 5 criteria: (1) hierarchical structure; (2) internal disciplinary system based on elimination and terrorism; (3) the laundering of illegal profits; (4) infiltration in politics, government, and legitimate business; (5) diversity of criminal activities. These criteria are consistent with the 1983 President's Commission on Organized Crime. Three of the 200 groups met all 5 criteria (1 South-American, 1 Chinese, 1 Dutch); 17 met 4 of the criteria; 18 met 3 of the criteria; 34 met 2 of the criteria; 61 met 1 of the criteria; and 36 met none of the criteria (Fijnaut 1989).

7. Society and Crime did not propose a more punitive approach to all forms of crime. To the contrary, the government emphasizes the importance of "differentiation." Crime policy must be differentiated "...in the sense that petty crime requires a different approach to that adopted in respect of the more serious forms of crime" (Ministerie van Justitie 1985:2). Dealing with petty crime should be the primary responsibility of citizens and local governments in cooperation with social service agencies and the focus should be on prevention. The criminal law should only serve as a "backup" (Ministry of Justice 1985:24). Increased rationally-coordinated law enforcement efforts should be mostly focused on serious forms of criminality.

8. Society and Crime (1985:22-22 and 45) also repeatedly refers to the public fear of crime.

9. Single Convention on Narcotic Drugs, New York March 30 1961, Trb 1963, 81. The Convention became operative in the Netherlands on August 15 1965, introduced in the Act of March 2 1964, Stb 111.

10. Protocol to Amend the Single Convention on Narcotic Drugs (1961) of March 25 1972, Trb. 1980, 184. Introduced in the Act of November 19 1986, Stb. 720 and effective on June 28 1987, Trb. 1987, 89.

11. Dutch health policy aims at easy accessibility for all people who need services or assistance. Consequently, a major part of the total population of drug addicts is reached. Since keeping in contact

with addicts is a prerequisite for AIDS-prevention, this is a very positive development. Only 8% of all 605 Dutch AIDS-patients are drug addicts (October 1 1988). In Europe, this is 23% (June 30 1988) and in the U.S. 26% (September 26 1988). The prevalence of HIV in a non-representative sample of high risk intravenous drug users in Amsterdam was approximately 30% (1987). Outside of Amsterdam, in 3 smaller cities, the infection rate was 3.6% in (1986) (Engelsman, 1988:19). (See also Buning 1989.)

12. The Stewart-Clark report presents the results of the investigation of drug problems in the European Community by an International Commission headed by Sir Jack Stewart-Clark.

13. Council of Europe, Parliamentary Assembly, Legal Affairs Committee. Report on International Crime (submitted by Mr. Stoffelen, Rapporteur), AS/Jur. (38) 14 and Council of Europe, Parliamentary Assembly, 37th Ordinary Session, January 27-31 1986.

14. Resolutions of the Committee of Ministers of the E.C. nrs.: - (73) 6 On the penal aspects of drug abuse; - (74) 3 On international terrorism; - (76) 38 On research of drug abuse.

15. Recommendations of the Committee of Ministers to member states nrs.: - (80) 10 On measures against the transfer and the safekeeping of funds of criminal origin; - (82) 17 On the custody and treatment of dangerous prisoners.Also Recommendations of the Parliamentary Assembly of the Council of Europe (86) 1024 on the European Response to international Terrorism.

16. Article 8a of the E.C. Convention of March 25 1957, Rome, Trb. 1957, 91. Article 8a was added to the E.C. Convention by Europese Akte, signed on February 17 and 28 1986, Trb. 1986, 63.

17. Officially, it is categorically denied that any such pressures exist. For example, see the interview with the West-German Ambassador in the Netherlands in the Volkskrant of June 11 1988.

18. The Schengen Agreement specifies obligatory meetings of the participating countries only for the short term measures (before January 1 1986). In practice, however, one has continued to meet in similar manner to discuss the long term measures.

19. In a recent study in Amsterdam, Korf (1987) found that among foreign drug users, West-Germans were the largest group, followed by Italian, British and Spanish citizens. West-German addicts were also greatly overrepresented in the 1986 arrest statistics of the Drug Division of the Amsterdam police (Korf, 1987:17).

20. It is a cause of concern, though, that one of the (pragmatic) Dutch solutions to the international demand for a harmonization of drug control measures is found in the development of a two-pronged policy: maintaining the pragmatic policy aimed at risk reduction for Dutch citizens, but abandoning the principle of harm-reduction for foreign drug users.

TABLE 2. HIGHLIGHTS OF GUIDELINES DUTCH OPIUM ACT

	Hard Drugs - More than small amount	Soft Drugs - More than small amount	Hard and Soft Drugs - Small amount, for own use
Priority Level of Law Enforcement	High	Medium/Low	Low
Import/Export	3 yr. min. (2 yr. min. for couriers)	1 yr. min.	Soft drugs: fine Hard drugs: conditional dismissal; offer of assistance
Manufacturing, Transporting or Trafficking	2 yr. min. *	Conditional prison sentence and/or fine ** (No specific time or amount) (1 yr. min. for courier)	Soft drugs: no prosecution, fine Hard drugs: no prosecution, conditional dismissal; offer of assistance
Possession	1 yr. min. *	Conditional prison sentence and/or fine ** (no specific fine or amount)	Soft drugs: no prosecution, fine Hard drugs: no prosecution, conditional dismissal; offer of assistance

* Except for addicts who are involved to support habit: conditional prison sentence; offer of assistance

** Except for small retail dealer (housedealer); no prosecution

TABLE 1. STATUTORY PENALTIES LAID DOWN IN THE OPIUM ACT OF 1976

	maximum penalty for possession	maximum penalty for manufacturing, transporting or trafficking	maximum penalty for importing or exporting
SOFT DRUGS (hemp products)	up to 30 grams: a minor offence; one month's detention or Fl. 5,000 fine	up to 30 grams: a minor offence; one month's detention or Fl. 5,000 fine	four years' imprisonment and/or Fl. 100,000 fine (2)
	more than 30 grams: two years' imprisonment and/or Fl. 1,000,000 fine (2)	more than 30 grams: two years' imprisonment and/or Fl. 1,000,000 fine (2)	
HARD DRUGS (drugs presenting unacceptable risks, heroin, cocaine, etc.)	for personal use: one year's imprisonment or Fl. 10,000 fine (1)	eight years' imprisonment and/or Fl. 100,000 fine (2)	for personal use: one year's imprisonment or Fl. 10,000 fine (1)
	in other cases: four years' imprisonment and/or Fl 100,000 fine (2)		in other cases: twelve years imprisonment and/or Fl. 100,000 fine (2)

Note: Adapted from Ministry of Welfare, Health and Cultural Affairs (1985) Policy on Drug Users, p.2.
(1) The Act does not lay down a maximum quantity for personal use. In practice, the courts apply a quantity of ½ gram.
(2) If the value of any materials involved in such offences or the proceeds resulting wholly or partially from such offences exceed(s) Fl. 25,000, a maximum fine of Fl. 1,000,000 may be imposed.